Supreme Court, U.S.
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No. 10-1279

In the
Supreme Court of the United States

EDWARD H. FLINT,

Petitioner,

v.

KATIE KING, JUDGE

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the District Court and the Court of Appeals for the Sixth Circuit correctly dismissed a civil rights complaint arising from a state judge's conduct which occurred exclusively in the courtroom during a discovery motion?

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CITATIONS OF THE OPINIONS AND ORDERS ENTERED IN THIS CASE

Pursuant to Supreme Court Rule 24.1(d), the decisions below were unpublished. The case before the United States Court of Appeals Sixth Circuit was styled *Edward H. Flint v. Katie King, Judge,* Sixth Circuit No. 10-5565. The district court action before the United States District Court for the Western District of Kentucky at Louisville was styled *Edward H. Flint v. Katie King,* Civil Action No. 3:09CV-779-S.

STATEMENT OF THE CASE

Respondent Katie King was at all relevant times a duly sworn Kentucky state District Judge located in Jefferson County, Kentucky. Each and every action taken by Judge King and complained of by Petitioner Flint occurred while Judge King sat on the bench. Flint makes no allegations that Judge King acted outside of her jurisdiction or took actions outside of her official capacity.

Petitioner Flint filed his state district court action before Judge King as the result of an ongoing battle with his condominium association. Kentucky district courts are courts of limited jurisdiction which hear civil disputes that involve amounts of $4,000.00 or less. As shown by the Statement of the Case set forth in Mr. Flint's Petition for Writ of Certiorari, Mr. Flint filed several other lawsuits relating to his dissatisfaction with the condominium association, which he apparently confuses with the current proceeding. Mr. Flint also sued three (3) other state judges as the result of adverse rulings in his various actions. Mr. Flint, proceeding pro se, also chose to file

Petitions for Writ of Certiorari with respect to the adverse decisions of the district court and the Court of Appeals for the Sixth Circuit in connection with the other cases, as shown upon Mr. Flint's Statement of the Case.

Petitioner Flint appeared before Respondent King on only two (2) occasions. The first occasion was a Motion to Compel Discovery filed by Mr. Flint. Judge King ruled in part for the condominium association and in part for Respondent Flint. During the hearing, Petitioner Flint became extremely disruptive and Judge King was forced to threaten contempt in order to regain control of her courtroom. Judge King did not place Mr. Flint in jail or levy any sanctions or fines against Mr. Flint as a result of his conduct.

At the second and last hearing involving Mr. Flint, Judge King voluntarily recused herself at the request of Mr. Flint. Mr. Flint then opted to file a pro se civil rights suit in United States District Court for unspecified due process violations relating to the two (2) hearings.

On April 27, 2010, the United States District Court dismissed Mr. Flint's lawsuit based on judicial immunity.

Mr. Flint appealed the decision of the United States District Court to the United States Court of Appeals for the Sixty Circuit. On January 12, 2011, the Sixth Circuit affirmed the dismissal by the District Court. On March 15, 2011, the Sixth Circuit denied Mr. Flint's Petition of Rehearing.

ARGUMENT

THE FLINT CLAIMS WERE DISMISSED BASED ON CLEARLY ESTABLISHED PRINCIPALS OF JUDICIAL IMMUNITY AND DO NOT MERIT REVIEW BY THE COURT.

The actions taken by the Court below were taken in accordance with clearly established rules relating to judicial immunity. Both the circuit and district courts relied upon *Stump v. Sparkman*, 435 U.S. 349 (1978):

> "The governing principle of law is well-established and is not questioned by the parties. As early as 1872, the court recognized that it was 'a general principle of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority vested in him, [should] be free to act upon his own convictions, without apprehension of personal consequences to himself'. *Bradley v. Fisher* [citation omitted]. For that reason the court held that 'judges of courts of superior or general jurisdiction are not liable to civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly.' 13 Wall., at 351. Later we held that this doctrine of judicial immunity was applicable in suits under Section I of the Civil Rights Act of 1871, 42 U.S.C. §1983, for the legislative record gave no indication that Congress intended to abolish this long established principle. *Pearsan v. Ray*, 386 U.S. 547 (1967)" 435 U.S., at 355, 356."

In this instance, both actions taken by Judge King as a result of Mr. Flint's discovery motion were within the jurisdiction of the Court and taken while acting in an official capacity. In this instance, no allegations of malice or corruption were made by Mr. Flint. Accordingly, the lower courts correctly found that Judge King was immune from the suit filed by Mr. Flint.

Mr. Flint fails to present any coherent reason to grant certiorari in his petition. Mr. Flint essentially asks the court to modify or overturn principles of judicial immunity which have existed since at least 1872.

Judge King's entitlement to immunity in this instance could not be any clearer. Even if, for argument's sake only, the Court were inclined to revisit the issue of judicial immunity, the Respondent cannot envision a poorer vehicle for analyzing immunity than the facts presented by Mr. Flint. Judge King ruled only on a discovery motion filed by the Petitioner. Although Judge King found Mr. Flint in contempt as a result of his rude and abrasive conduct, Judge King did not impose any sanctions, jail time, or fines as a result of Mr. Flint's contempt. When Mr. Flint asked Judge King to recuse herself, Judge King granted the request. All of the actions taken by Judge King occurred in a public courtroom and on the record.

Mr. Flint suffered absolutely no damage as a result of the interlocutory discovery rulings by Judge King. Mr. Flint has already consumed valuable judicial resources by appealing his discovery dispute through

the Court of Appeals. No good reason exists to revive a case that borders on the frivolous.

CONCLUSION

For the reasons set forth above, the Respondent, Katie King, respectfully requests that the Petition for Writ of Certiorari filed by Edward H. Flint be denied.

Respectfully submitted,

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